

A RESOLUTION

02-*R*-1709

BY PUBLIC SAFETY AND LEGAL ADMINISTRATION COMMITTEE

**A RESOLUTION AUTHORIZING PAYMENT IN THE  
AMOUNT OF \$7,504.99 IN SETTLEMENT OF THE CLAIM  
OF ADRIAN V. POPESCU AGAINST THE CITY OF  
ATLANTA**

**WHEREAS**, Adrian V. Popescu has filed a claim against the City of Atlanta seeking damages arising out of a sewer back up into his home located at 4288 Powers Ferry Road; and

**WHEREAS**, property owned by Adrian V. Popescu has been damaged due to a sewer back up that occurred on October 30, 2000; and

**WHEREAS**, the City of Atlanta was on notice of said nuisance and yet the City failed to abate said nuisance; and

**WHEREAS**, inasmuch as the facts disclosed indicate said claim is not based on a claim of negligence, but is a nuisance which is not subject to a defense of sovereign immunity under the laws of the State of Georgia; and

**WHEREAS**, the claimant has asserted damages in excess of \$12,154.99 but the claimant has agreed to accept the sum of \$7,504.99 in full and complete satisfaction and settlement of his claim against the City of Atlanta; and

**WHEREAS**, the City Attorney has recommended that the claim of Adrian V. Popescu be settled for the sum of \$7,504.99.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$7,504.99 be paid by the City of Atlanta in satisfaction of any and all claims Adrian V. Popescu owner of properties located at 4288 Powers Ferry Road may have stemming from damages sustained to his property on October 30, 2000.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer be and hereby authorized to pay the above mentioned sum from account number 2J01/529017/T31001.

A true copy,

*Rhonda Daughin Johnson*  
Municipal Clerk, CMC

ADOPTED by the Council  
APPROVED by the Mayor

OCT 07, 2002  
OCT 15, 2002

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 01L0003

Date: September 18, 2002

Claimant /Victim ADRIAN V. POPESCU  
BY: (Atty)(Ins. Co.) \_\_\_\_\_  
Address: 4288 Powers Ferry Road, Atlanta, Georgia 30342  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ 12,154.99 + \_\_\_\_\_ Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 11/01/00 Method: Written, proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 10/30/00 Place: 4288 Powers Ferry Road  
Department Public Works Division: Sewer Operations  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: The claimant's property was damaged due to a sewer back up. The investigation determined that the City was on notice of problems in the mainline prior to the October 30, 2000 back up.

INVESTIGATION:

Statements: City employee \_\_\_\_\_ Claimant X Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

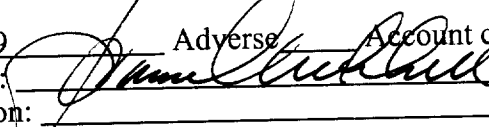
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement X  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR - DIANNE C. MITCHELL

RECOMMENDATION:

Pay \$ 7,504.99 Adverse \_\_\_\_\_ Account charged: 1A01 \_\_\_\_\_ 2J01 X 2H01 \_\_\_\_\_ 2P01 \_\_\_\_\_  
Claims Manager:  Concur/date 09-18-02  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 4099  
10/07/02  
5:15 PM

Atlanta City Council

Regular Session

CONSENT I                    0613;1695;1544;1562;1581;1666;1551  
                              1668; Except CDHR #6-#10  
                              RECON/READOPT

YEAS: 10  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 5  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	B Martin	Y Norwood
NV Young	Y Shook	NV Maddox	NV Willis
Y Winslow	NV Muller	Y Boazman	NV Woolard

CONSENT I

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**10/07/02 Council Meeting**

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**ITEMS ADOPTED ON CONSENT  
AGENDA**

- |               |               |
|---------------|---------------|
| 1. 02-O-1538  | 46. 02-R-1702 |
| 2. 02-O-1549  | 47. 02-R-1703 |
| 3. 02-O-1554  | 48. 02-R-1704 |
| 4. 02-O-1466  | 49. 02-R-1705 |
| 5. 02-O-1253  | 50. 02-R-1706 |
| 6. 02-O-1575  | 51. 02-R-1707 |
| 7. 02-O-1576  | 52. 02-R-1708 |
| 8. 02-O-1582  |               |
| 9. 02-O-1447  |               |
| 10. 02-O-1545 |               |
| 11. 02-O-1261 |               |
| 12. 02-O-1534 |               |
| 13. 02-R-1662 |               |
| 14. 02-R-1669 |               |
| 15. 02-R-1709 |               |
| 16. 02-R-1711 |               |
| 17. 02-R-1712 |               |
| 18. 02-R-1713 |               |
| 19. 02-R-1633 |               |
| 20. 02-R-1664 |               |
| 21. 02-R-1667 |               |
| 22. 02-R-1673 |               |
| 23. 02-R-1469 |               |
| 24. 02-R-1642 |               |
| 25. 02-R-1644 |               |
| 26. 02-R-1649 |               |
| 27. 02-R-1714 |               |
| 28. 02-R-1727 |               |
| 29. 02-R-1650 |               |
| 30. 02-R-1651 |               |
| 31. 02-R-1652 |               |
| 32. 02-R-1653 |               |
| 33. 02-R-1654 |               |
| 34. 02-R-1655 |               |
| 35. 02-R-1656 |               |
| 36. 02-R-1657 |               |
| 37. 02-R-1658 |               |
| 38. 02-R-1659 |               |
| 39. 02-R-1660 |               |
| 40. 02-R-1718 |               |
| 41. 02-R-1719 |               |
| 42. 02-R-1698 |               |
| 43. 02-R-1699 |               |
| 44. 02-R-1700 |               |
| 45. 02-R-1701 |               |

**ITEMS ADVERSED  
ON CONSENT AGENDA**

- 53. 02-R-1675
- 54. 02-R-1676
- 55. 02-R-1677
- 56. 02-R-1678
- 57. 02-R-1679
- 58. 02-R-1680
- 59. 02-R-1681
- 60. 02-R-1682
- 61. 02-R-1683
- 62. 02-R-1684
- 63. 02-R-1685
- 64. 02-R-1686
- 65. 02-R-1687
- 66. 02-R-1688
- 67. 02-R-1689
- 68. 02-R-1690
- 69. 02-R-1691
- 70. 02-R-1692
- 71. 02-R-1693
- 72. 02-R-1694
- 73. 02-R-1696
- 74. 02-R-1697

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Consent I Vote: 10Yeas; 0 Nays (See RCS #4099; Reconsidered See RCS #4043)  
Items Removed from Consent: 02-R-1613; 02-R-1695; 02-O-1544; 02-O-1562; 02-O-1581; 02-R-1666;  
02-O-1551; 02-R-1668; 02-O-1598; 02-O-1599; 02-O-1600; 02-O-1601; 02-O-1602

02-2-1709

(Do Not Write Above This Line)

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BY PUBLIC SAFETY AND  
LEGAL ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING  
PAYMENT IN THE AMOUNT OF \$7,504.99  
IN SETTLEMENT OF THE CLAIM OF  
ADRIAN V. POPESCU AGAINST THE  
CITY OF ATLANTA

APPROVED BY:

ADOPTED BY

*Rosalind Rubens Newell*  
OCT 07 2002  
ROSALIND RUBENS NEWELL COUNCIL  
DEPUTY CITY ATTORNEY

- ☐ CONSENT REFER  
☐ REGULAR REPORT REFER  
☐ ADVERTISE & REFER  
☐ 1st ADOPT 2nd READ & REFER  
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred to \_\_\_\_\_

PSA Committee

Date 10/2/02

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

OCT 07 2002

OCT 07 2002

*Rosalind Rubens Newell*  
MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED  
*Paul Taylor*  
OCT 15 2002  
MAYOR